IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.583 OF 2007

SHRI SAGAR YESHWANT NIMBALKAR ... PETITIONER.

VS.

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION, THANE DIVISION. ... RESPONDENT.

S.N.DESHPANDE FOR THE PETITIONER.

G.T.HEGDE SR.ADVOCATE I/B. G.S.HEGDE & ASSOCIATES.

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CORAM : A.P. DESHPANDE, J.

DATE : January 23, 2007.

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P.C.

1. The Petitioner was working as a driver in the employment of the respondent. On 9.3.2001, which happened to be the day of Holi festival, the Petitioner was present in the rest room, meant for drivers and conductors. As there was a rush of passengers, the Assistant Traffic Superintendent Shri Sawant approached the Petitioner in the rest room with a request to undertake the duty for carrying the bus, so as to meet

the exigency. The Petitioner at that point of time was playing cards. Shri Sawant snatched the cards from the petitioner and thereupon the petitioner abused the Assistant Traffic Superintendent and twisted his finger to the extent that it suffered a fracture. In the Departmental Enquiry, the petitioner was found guilty. The Depot Manager and Mr. Sawant were examined as witnesses. The Petitioner was given an opportunity to cross-examine the said witnesses and to lead his evidence, which the petitioner did. On appreciation of the evidence, the Enquiry Officer recorded a finding that the petitioner is guilty of commission of misconduct, which resulted in passing Order of dismissal.

2. Aggrieved thereby, the petitioner moved the Labour Court by filing the complaint under MRTU & PULP Act. The Labour Court concluded that the misconduct stands proved. While dealing with the submission that the punishment imposed was shockingly disproportionate, the Labour Court so also the Industrial Court have observed that on many occasions in the past, the petitioner had committed similar type of misconducts by his disorderly and rude behaviour and was punished on nine occasions. The Petitioner also seems to have been punished for consuming liquor and for other misconducts.

The Industrial Court, recorded that on earlier 34 occasions, the Petitioner was found guilty of misconduct. In the Revision preferred before the Industrial Court, was also dismissed after considering the submissions made on behalf of the petitioner.

3. Perused the Orders passed by the Courts below. The same does not call for any interference in exercise of writ jurisdiction. Hence, the petition is summarily dismissed.

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[A.P.DESHPANDE, J.]